REMARKS

Claims 1-18 are pending, of which Claims 1-3 and 11-12 have been amended. Applicants have carefully considered the Application in view of the Examiner's action and, in light of the foregoing amendments and the following remarks, respectfully request reconsideration and full allowance of all pending claims. Applicants respond to this rejection in part based on the telephone interview with the Examiner on June 25, 2003. Applicants note with appreciation the Examiner's guidance during the telephone interview.

Applicants also note with appreciation the Examiner's indication of allowable subject matter, namely, of Claims 2-6 and 11-15. Claims 11-15 are indicated to be allowable, provided that the claims are rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 11-15 stand objected to as being dependent upon a rejected base claim. In response, Applicants have amended Claims 11 and 12 to be in independent form and to include all of the limitations of Claim 1. Accordingly, it is respectfully requested that the objection to independent Claims 11 and 12 be withdrawn.

Claims 13-15 depend from and further limit independent Claim 12, in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejection of dependent Claims 13-15 be withdrawn, as well.

Claims 2-6 are indicated to be allowable, provided that the claims are rewritten to overcome the rejections under 35 U.S.C. § 101 set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims. As for Claims 2-6, therefore, please refer to the following discussion with respect to the rejections under 35 U.S.C. § 101.

Claims 1-9 stand rejected under 35 U.S.C. § 101, assertedly because the claimed invention is directed to non-statutory subject matter. Specifically, the Examiner indicated in the interview that the rejection of Claims 1-9 under 35 U.S.C. § 101 as being directed to non-statutory subject matter may be withdrawn, if independent Claims 1-3 are amended to have the limitation of one or more electronic processing devices. The Examiner also suggested that the term "automatically" be inserted in the preamble of independent Claims 1-3.

In response to this rejection and based on the interview, independent Claim 1 has been amended to particularly recite the limitation of one or more electronic processing devices. Also, the preamble of Claim 1 has been amended to include "automatically" as suggested by the Examiner. Support for these amendments are found in the Application, for example, at page 7, lines 3-8. It is therefore submitted that Claim 1, as amended, is directed to statutory subject matter. Accordingly, it is respectfully requested that the rejection of Claim 1 under 35 U.S.C. § 101 as being directed to non-statutory subject matter be withdrawn.

As noted above, Claims 2 and 3 are indicated to be allowable, provided that the claims are rewritten to overcome the rejections under 35 U.S.C. § 101 set forth in the Office Action and to include all of the limitations of the base claim and any intervening claims. In response, Applicants have amended Claims 2 and 3 to include not only the limitation of one or more electronic processing devices to overcome the rejections under 35 U.S.C. § 101, but also all of the limitations of the base claim and any intervening claims. Accordingly, it is respectfully requested that the rejections of independent Claims 2 and 3 under 35 U.S.C. § 101 be withdrawn.

Claims 4-6 depend from and further limit independent Claim 3, in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejection of dependent Claims 4-6 be withdrawn, as well.

Claims 1, 7-10, and 16-18 stand rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over U.S. Patent No. 5,911,134 to Castonguay et al. (hereinafter "Castonguay") in view of U.S. Patent No. 6,044,355 to Crockett et al. (hereinafter "Crockett"), in further view of U.S. Patent No. 5,848,403 to Gabriner et al. (hereinafter "Gabriner"). In response, Applicants respectfully submit that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination recited in the third, fourth, fifth, and sixth elements of independent Claims 1 and 10.

Castonguay was cited as fully disclosing Applicants' invention recited in independent Claims 1 and 10, except for the teachings of the third, fourth, fifth, and sixth elements of independent Claims 1 and 10, for which Crockett and Gabriner have been cited. Specifically,

Crockett was cited as disclosing the third element of independent Claims 1 and 10, namely, *for each factor, determining a difference value between a plurality of schedules and each agent's preference for that factor*. Gabriner was cited as disclosing the fourth, fifth, and sixth elements of independent Claims 1 and 10, namely, *assigning the difference value for each factor to an assigned vector for each agent wherein the factor having the highest importance is assigned to the highest order bits of the vector and the remaining factors are assigned to subsequent orders of bits in their assigned order of importance; for each agent, calculating an unassigned vector for each schedule not assigned to the agent; assigning the schedule having the lowest vector to each agent.*

Applicants respectfully submit that Crockett fails to teach or suggest the third element of independent Claims 1 and 10, namely, *for each factor, determining a difference value between a plurality of schedules and each agent's preference for that factor*. Crockett was cited as disclosing the third element, because it discloses a "net staff array," which is defined as "generally a one-dimensional array (for each call type) that contains 'difference' values generated (at least initially) using call volume forecasts and Erlang processing, all in a known manner." Throughout the Crockett disclosure, there is no indication that the "net staff array" in Crockett contains a difference value between a plurality of schedules and each agent's preference. The issue here is not whether Crockett discloses a difference value, but whether it discloses *a difference value between a plurality of schedules and each agent's preference (for each factor)*. Crockett does not disclose *a difference value between a plurality of schedules and each agent's preference (for each factor)*, as is clearly stated in Crockett, Col. 5, lines 59-65:

> Thus, the net staff array contains values representing the difference between a currently-scheduled staff and an amount of staff needed to handle the call type during the interval, in other words, a current estimate of the difference between the staffing level needed to meet current call handling requirements.

In the "Response to Argument" section of the Office Action, it is first argued that "the net staff array in Crockett indeed calculates a 'difference' value as seen in column 5, lines 46-51." (As before, the fact that Crockett discloses "a difference value" is not disputed.) And then it is

argued that "the schedule may then be refined to include agent preferences, which would be included in the difference value of the array." This may be referring to Col. 5, lines 51-53 of Crockett: "The initial estimates for net staff values need not be extremely accurate, as they are refined in later iterations of the method as will be described." This merely indicates that the net staff values are refined through iterations and still fails to teach or suggest that the difference value contained in the net staff array of Crockett actually refers to the *difference value between a plurality of schedules and each agent's preference (for each factor)*. Accordingly, none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the third element of independent Claims 1 and 10.

Moreover, Gabriner fails to teach or suggest the fourth, fifth, and sixth elements of independent Claims 1 and 10, namely, *assigning the difference value for each factor to an assigned vector for each agent wherein the factor having the highest importance is assigned to the highest order bits of the vector and the remaining factors are assigned to subsequent orders of bits in their assigned order of importance; for each agent, calculating an unassigned vector for each schedule not assigned to the agent; assigning the schedule having the lowest vector to each agent.*

It is asserted in the Office Action that Gabriner discloses soft constraints (i.e., preference) considered in producing schedules. Gabriner, Col. 7, lines 40-45, was cited: "resource bit array 30 includes an ordered set of bits, wherein a predetermined index into resource bit array 30 indicates a capability of the resource associated with resource bit array 30." Gabriner is cited as also disclosing "an indexed location in each resource bit array 30 that indicates a qualification that corresponds to a constraint in a task bit array 50." These and other portions of Gabriner do not disclose the unique combination of the fourth, fifth, and sixth elements of independent Claims 1 and 10, because Gabriner's resource bit array 30 is not related to soft constraints but to hard restraints. According to Gabriner, Col. 7, lines 40-42, "[a] system for encoding *hard constraints* information according to the present invention includes a resource bit array or mask 30, FIG. 4." (Emphasis added.). Therefore, resource bit array 30 of Gabriner cannot be analogized to the vector recited in independent Claims 1 and 10. Accordingly, Gabriner fails to

teach or suggest the unique combination of the fourth, fifth, and sixth elements of independent Claims 1 and 10. Crockett and other cited references do not cure the deficiencies of the Gabriner disclosure.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination recited in independent Claims 1 and 10. It is therefore submitted that Claims 1 and 10 clearly and precisely distinguish over the cited combinations of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1 and 10 under 35 U.S.C. § 103 as being unpatentable over Castonguay in view of Crockett be withdrawn.

Claims 7-9 and 16-18 depend from and further limit independent Claims 1 and 10, in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejection of dependent Claims 7-9 and 16-18 be withdrawn, as well.

Applicants have reviewed the additional references cited as of general interest, and have concluded that the references do not prejudice the patentability of the invention recited by the present claims. For this reason and the reason that they have not been applied against Applicants' claims, no further discussion of them is deemed necessary.

Enclosed is a check in the amount of two hundred fifty two and no/100 dollars ($252.00), to cover the fee for additional independent claims. Applicants do not believe any other fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Applicants have now made an earnest attempt to place the application in condition for allowance. Therefore, Applicants respectfully request, for the reasons set forth herein and for other reasons clearly apparent, full allowance of Claims 1-18 so that the application may be passed to issue.
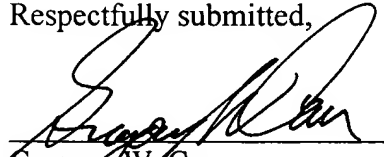
Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

Dated: 7-7-03

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